

AMENDED IN ASSEMBLY JUNE 13, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 951

Introduced by Assembly Member Perea
(Coauthor: Assembly Member Gatto)
(Coauthor: Senator Correa)

February 18, 2011

~~An act relating to state employees, and declaring the urgency thereof, to take effect immediately. An act to add Section 6397 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 951, as amended, Perea. ~~State employees: memorandum of understanding. Sales and use taxes: exemption: back-to-school products.~~

The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state.

This bill would provide an exemption from the sales tax for the gross receipts from the sale of a qualified back-to-school product, as defined, to a qualified purchaser, as defined, during a specified period in August of each year, commencing in 2012 and ending in 2016.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which conforms to the Sales and

Use Tax Law. Exemptions from state sales and use taxes are incorporated into these laws.

This bill would specify that this exemption does not apply to local sales and use taxes, transactions and use taxes, and specified state taxes from which revenues are deposited into the Local Public Safety Fund, the Local Revenue Fund, or the Fiscal Recovery Fund.

This bill would take effect immediately as a tax levy.

~~Existing law provides that a provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees that requires the expenditure of funds does not become effective unless approved by the Legislature in the annual Budget Act.~~

~~This bill would approve provisions of a memorandum of understanding entered into between the state employer and State Bargaining Unit 7, the California Statewide Law Enforcement Association, that require the expenditure of funds, and would provide that these provisions will become effective even if these provisions are approved by the Legislature in legislation other than the annual Budget Act.~~

~~The bill would provide that provisions of the memorandum of understanding approved by this bill that require the expenditure of funds will not take effect unless funds for those provisions are specifically appropriated by the Legislature, and would require the state employer and the affected employee organization to meet and confer to renegotiate the affected provisions if funds for those provisions are not specifically appropriated by the Legislature.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6397 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 6397. (a) In 2012 and each calendar year thereafter until
- 4 January 1, 2016, for the three-day period beginning at 12:01 a.m.
- 5 on the first Friday of August and ending at 11:59 p.m. on the
- 6 following Sunday, there are exempted from the computation of the

1 *amount of the sales tax the gross receipts from the sale of a*
2 *qualified back-to-school product to a qualified purchaser.*

3 *(b) For purposes of this section, the following definitions shall*
4 *apply:*

5 *(1) "Qualified back-to-school product" means any of the*
6 *following products, if the gross receipts from the sale of that*
7 *product are one hundred dollars (\$100) or less:*

8 *(A) Backpacks.*

9 *(i) "Backpack" means a messenger bag or a pack with straps*
10 *that a person wears on his or her back, including a backpack with*
11 *wheels if the backpack can also be worn on the back.*

12 *(ii) "Backpack" shall not include an item that is commonly*
13 *considered luggage, a briefcase, an athletic bag, a duffle bag, a*
14 *gym bag, a computer bag, a purse, or a framed backpack.*

15 *(B) Binders.*

16 *(C) Blackboard chalk.*

17 *(D) Book bags.*

18 *(E) Calculators.*

19 *(F) Cellophane tape.*

20 *(G) Compasses.*

21 *(H) Composition books.*

22 *(I) Crayons.*

23 *(J) Dividers.*

24 *(K) Erasers.*

25 *(L) Folders, including expandable, pocket, plastic, or manila*
26 *folders.*

27 *(M) Geometry sets.*

28 *(N) Glue, paste, and glue sticks.*

29 *(O) Highlighters.*

30 *(P) Index cards.*

31 *(Q) Lunch boxes.*

32 *(R) Markers.*

33 *(S) Notebooks.*

34 *(T) Notepads.*

35 *(U) Pencil boxes and other school supply boxes.*

36 *(V) Pencils.*

37 *(W) Pencil sharpeners.*

38 *(X) Pens.*

39 *(Y) Protractors.*

40 *(Z) Rulers.*

1 (AA) Scissors.

2 (AB) Student planners.

3 (AC) Writing tablets.

4 (2) “Qualified purchaser” means an individual who, during
5 the period described in subdivision (a), purchases the qualified
6 back-to-school products at the retailer’s physical place of business.

7 (c) (1) Notwithstanding any provision of the Bradley-Burns
8 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing
9 with Section 7200)) or the Transactions and Use Tax Law (Part
10 1.6 (commencing with Section 7251)), the exemption established
11 by this section shall not apply with respect to any tax levied by a
12 county, city, or district pursuant to, or in accordance with, either
13 of those laws.

14 (2) Notwithstanding subdivision (a), the exemption provided by
15 this section shall not apply with respect to any tax levied pursuant
16 to Section 6051.2, 6051.5, 6201.2, or 6201.5, or pursuant to Section
17 35 of Article XIII of the California Constitution.

18 SEC. 2. This act provides for a tax levy within the meaning of
19 Article IV of the Constitution and shall go into immediate effect.

20 SECTION 1. ~~The Legislature finds and declares that the~~
21 ~~purpose of this act is to approve an agreement pursuant to Section~~
22 ~~3517.5 of the Government Code entered into by the state employer~~
23 ~~and a recognized employee organization.~~

24 SEC. 2. ~~The provisions of the memorandum of understanding~~
25 ~~prepared pursuant to Section 3517.5 of the Government Code and~~
26 ~~entered into by the state employer and State Bargaining Unit 7,~~
27 ~~dated _____, and that require the expenditure of funds, are hereby~~
28 ~~approved for the purposes of subdivision (b) of Section 3517.6 of~~
29 ~~the Government Code.~~

30 SEC. 3. ~~The provisions of the memorandum of understanding~~
31 ~~approved by Section 2 of this act that require the expenditure of~~
32 ~~funds shall not take effect unless funds for these provisions are~~
33 ~~specifically appropriated by the Legislature. If funds for these~~
34 ~~provisions are not specifically appropriated by the Legislature, the~~
35 ~~state employer and the affected employee organization shall meet~~
36 ~~and confer to renegotiate the affected provisions.~~

37 SEC. 4. ~~Notwithstanding Section 3517.6 of the Government~~
38 ~~Code, the provisions of the memorandum of understanding~~
39 ~~included in Section 2 that require the expenditure of funds shall~~
40 ~~become effective even if the provisions of the memorandum of~~

1 understanding are approved by the Legislature in legislation other
2 than the annual Budget Act.

3 ~~SEC. 5. This act is an urgency statute necessary for the~~
4 ~~immediate preservation of the public peace, health, or safety within~~
5 ~~the meaning of Article IV of the Constitution and shall go into~~
6 ~~immediate effect. The facts constituting the necessity are:~~

7 ~~In order for the provisions of this act to be applicable as soon as~~
8 ~~possible in the 2010–11 fiscal year and thereby facilitate the orderly~~
9 ~~administration of state government at the earliest possible time, it~~
10 ~~is necessary that this act take effect immediately.~~